

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN

CHARMEEK CORTEZ MITCHELL,

Plaintiff,

v.

Case No. 24-cv-1350-bhl

CELESTE SYLVAS, et al.,

Defendants.

SCREENING ORDER

Plaintiff Charmeek Cortez Mitchell, who is currently serving a state prison sentence at the Milwaukee County Community Reintegration Center and representing himself, filed a complaint under 42 U.S.C. §1983, alleging that his civil rights were violated. This matter comes before the Court on Mitchell's motion for leave to proceed without prepayment of the filing fee and to screen the complaint.

MOTION FOR LEAVE TO PROCEED WITHOUT PREPAYMENT OF THE FILING FEE

Mitchell has requested leave to proceed without prepaying the full filing fee (*in forma pauperis*). A prisoner plaintiff proceeding *in forma pauperis* is required to pay the full amount of the \$350.00 filing fee over time. *See* 28 U.S.C. §1915(b)(1). Mitchell has filed a certified copy of his prison trust account statement for the six-month period immediately preceding the filing of his complaint, as required under 28 U.S.C. §1915(a)(2), and has been assessed and paid an initial partial filing fee of \$14.37. Therefore, the Court will grant Mitchell's motion for leave to proceed without prepaying the filing fee.

SCREENING OF THE COMPLAINT

The Court has a duty to review any complaint in which a prisoner seeks redress from a governmental entity or officer or employee of a governmental entity, and dismiss any complaint or portion thereof if the prisoner has raised any claims that are legally “frivolous or malicious,” that fail to state a claim upon which relief may be granted, or that seek monetary relief from a defendant who is immune from such relief. 28 U.S.C. §1915A(b). In screening a complaint, the Court must determine whether the complaint complies with the Federal Rules of Civil Procedure and states at least plausible claims for which relief may be granted. To state a cognizable claim under the federal notice pleading system, a plaintiff is required to provide a “short and plain statement of the claim showing that [he] is entitled to relief.” Fed. R. Civ. P. 8(a)(2). It must be at least sufficient to provide notice to each defendant of what he or she is accused of doing, as well as when and where the alleged actions or inactions occurred, and the nature and extent of any damage or injury the actions or inactions caused.

“The pleading standard Rule 8 announces does not require ‘detailed factual allegations,’ but it demands more than an unadorned, the-defendant-unlawfully-harmed-me accusation.” *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009) (quoting *Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 555 (2007)). “The tenet that a court must accept as true all of the allegations contained in a complaint is inapplicable to legal conclusions. Threadbare recitals of the elements of a cause of action, supported by mere conclusory statements, do not suffice.” *Id.* A complaint must contain sufficient factual matter, accepted as true, to “state a claim to relief that is plausible on its face.” *Twombly*, 550 U.S. at 570. “A claim has facial plausibility when the plaintiff pleads factual content that allows the court to draw the reasonable inference that the defendant is liable for the misconduct alleged.” *Id.* at 556. “[T]he complaint’s allegations must be enough to raise a right to relief above the speculative level.” *Id.* at 555 (internal quotations omitted).

On October 22, 2024, Mitchell filed a 15-page complaint that contains no factual allegations. *See* Dkt. No. 1. The complaint lists the name of the Defendants—Celeste Sylvas, Shaquila Sandlin, Department of Community Corrections, and State of Wisconsin—and states, “violation of my PHI and HIPPA rights” and “negligence against my agent Celeste Sylvas.” *Id.* at 2, 3, & 7. The remainder of the pages in the complaint states, “refer to attachment,” and asks for monetary damages. *Id.* at 4-11. The attachment to the complaint appears to be a letter from the Department of Corrections (DOC) regarding a DOC “agent” who reported that her car had been broken into and had items stolen. Dkt. No. 1-1. The Court cannot screen a complaint that contains no factual allegations; and it is not the Court’s responsibility to dig though the contents of a DOC letter and create its own proposed facts. *See U.S. ex rel. Garst v. Lockheed-Martin Corp.*, 328 F.3d 374, 378 (7th Cir. 2003) (“Rule 8(a) requires parties to make their pleadings straightforward, so that judges and adverse parties need not try to fish a gold coin from a bucket of mud.”). Therefore, the Court will dismiss the original complaint for failure to state a claim.

The dismissal is not final, however. As a general matter, *pro se* plaintiffs are allowed at least one chance to amend an inadequately pleaded complaint. *See Boyd v. Bellin*, 835 F. App’x 886, 889 (7th Cir. 2021). The Court will therefore give Mitchell an opportunity to file an amended complaint to cure the deficiencies described above. The Court will enclose a guide for *pro se* prisoners that explains how to file an amended complaint that the Court can effectively screen. The Court also will include a blank prisoner amended complaint form. The Court will require Mitchell to use that form to file his amended complaint. *See* Civ. L. R. 9 (E.D. Wis.). Mitchell is advised that the amended complaint must bear the docket number assigned to this case. The amended complaint replaces the prior complaint and must be complete in itself without reference to the original complaint. *See Duda v. Bd. of Educ. of Franklin Park Pub. Sch. Dist. No. 84*, 133 F.3d 1054, 1056–57 (7th Cir. 1998). In *Duda*, the appellate court emphasized that in such instances, the “prior pleading is in effect withdrawn as to all matters not restated in the amended

pleading.” *Id.* at 1057 (citation omitted). If Mitchell files an amended complaint, the Court will screen it as required by 28 U.S.C. §1915A. If Mitchell does not file an amended complaint, the Court will likely dismiss this case.

CONCLUSION

IT IS THEREFORE ORDERED that Mitchell’s motion for leave to proceed without prepayment of the filing fee (Dkt. No. 2) is **GRANTED**.

IT IS FURTHER ORDERED that the original complaint is **DISMISSED** because it fails to state a claim. Mitchell may file an amended complaint that complies with the instructions in this order **within 30 days of this order**. If Mitchell files an amended complaint by the deadline, the Court will screen it as required by 28 U.S.C. §1915A. If Mitchell does not file an amended complaint by the deadline, the Court will likely dismiss this case.

IT IS FURTHER ORDERED that the Clerk’s Office mail Mitchell a blank prisoner amended complaint form and a copy of the guide entitled “Guide to Filing Prisoner Complaints Without a Lawyer in the United States District Court for the Eastern District of Wisconsin,” along with this order.

IT IS FURTHER ORDERED that the agency having custody of Mitchell shall collect from his institution trust account the **\$335.63** balance of the filing fee by collecting monthly payments from Mitchell’s prison trust account in an amount equal to 20% of the preceding month’s income credited to the prisoner’s trust account and forwarding payments to the Clerk of Court each time the amount in the account exceeds \$10 in accordance with 28 U.S.C. §1915(b)(2). The payments shall be clearly identified by the case name and number assigned to this action. If Mitchell is transferred to another institution, the transferring institution shall forward a copy of this Order along with Mitchell remaining balance to the receiving institution.

IT IS FURTHER ORDERED that copies of this order be sent to the officer in charge of the agency where Mitchell is located.

IT IS FURTHER ORDERED that plaintiffs who are inmates at Prisoner E-Filing Program institutions must submit all correspondence and case filings to institution staff, who will scan and e-mail documents to the Court. The Prisoner E-Filing Program is mandatory for all inmates of Green Bay Correctional Institution, Waupun Correctional Institution, Dodge Correctional Institution, Wisconsin Secure Program Facility, Columbia Correctional Institution, and Oshkosh Correctional Institution. Plaintiffs who are inmates at all other prison facilities must submit the original document for each filing to the Court to the following address:

Office of the Clerk
United States District Court
Eastern District of Wisconsin
362 United States Courthouse
517 E. Wisconsin Avenue
Milwaukee, Wisconsin 53202

PLEASE DO NOT MAIL ANYTHING DIRECTLY TO THE COURT'S CHAMBERS. It will only delay the processing of the matter.

Mitchell is further advised that failure to make a timely submission may result in the dismissal of this action for failure to prosecute. In addition, the parties must notify the Clerk of Court of any change of address. Failure to do so could result in orders or other information not being timely delivered, thus affecting the legal rights of the parties.

Dated at Milwaukee, Wisconsin on January 31, 2025.

s/ Brett H. Ludwig

BRETT H. LUDWIG
United States District Judge